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APPLICATION NO.		FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/847,479	347,479 05/02/2001		Jeffrey J. Brown	FIS920010077US1	6231	
21254	7590	08/24/2004		EXAMINER		
MCGINN 8321 OLD		, PLLC OUSE ROAD	BARRECA, NICOLE M			
SUITE 200				ART UNIT	PAPER NUMBER	
VIENNA,	VA 2218	32-3817		1756		

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Office Action Communication	09/847,479	BROWN ET AL.	/
Office Action Summary	Examiner	Art Unit	
	Nicole M Barreca	1756	
The MAILING DATE of this communication Period for Reply	appears on the cover sheet w	ith the correspondence address	
A SHORTENED STATUTORY PERIOD FOR RETHE MAILING DATE OF THIS COMMUNICATIO  - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a  - If NO period for reply is specified above, the maximum statutory per  - Failure to reply within the set or extended period for reply will, by state Any reply received by the Office later than three months after the material patent term adjustment. See 37 CFR 1.704(b).	N. R.1.136(a). In no event, however, may a reply within the statutory minimum of third iod will apply and will expire SIX (6) MON	reply be timely filed by (30) days will be considered timely. ITHS from the mailing date of this communic	ation.
Status			
1) Responsive to communication(s) filed on 13	3 July 2004.		
<del></del>	his action is non-final.		
3) Since this application is in condition for allow		ers, prosecution as to the merit	s is
closed in accordance with the practice unde	r <i>Ex parte Quayle</i> , 1935 C.D	. 11, 453 O.G. 213.	5 10
Disposition of Claims			
4) Claim(s) 1-12 is/are pending in the application			
4a) Of the above claim(s) is/are withd 5) Claim(s) is/are allowed.	rawn from consideration.		
6)⊠ Claim(s) <u>1-12</u> is/are rejected.			
7) Claim(s) is/are objected to.			
8) Claim(s) are subject to restriction and	Vor alastian requirement		
and subject to restriction and	iror election requirement.		
Application Papers			
9)☐ The specification is objected to by the Exami	ner.		
10)☐ The drawing(s) filed on is/are: a)☐ ad		ov the Examiner	
Applicant may not request that any objection to the	ne drawing(s) be held in abeyand	ce. See 37 CFR 1.85(a)	
Replacement drawing sheet(s) including the corre	ection is required if the drawing(s	s) is objected to. See 37 CFR 1 12	1(d)
11)☐ The oath or declaration is objected to by the l	Examiner. Note the attached	Office Action or form PTO-152.	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreig	gn priority under 35 U.S.C. §	119(a)-(d) or (f).	
a)∐ All b)∐ Some * c)∏ None of:			
1. Certified copies of the priority document	nts have been received.		
2. Certified copies of the priority documen	nts have been received in Ap	plication No	
<ol> <li>Copies of the certified copies of the pri</li> </ol>	ority documents have been r	eceived in this National Stage	
application from the International Bure	au (PCT Rule 17.2(a)).		
* See the attached detailed Office action for a lis	st of the certified copies not re	eceived.	
Attrohment(e)			
Attachment(s)  1) Notice of References Cited (PTO-892)			
Notice of References Cited (PTO-892)     Notice of Draftsperson's Patent Drawing Review (PTO-948)	4) LI Interview Sui	mmary (PTO-413) Mail Date	
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08 Paper No(s)/Mail Date	5) Notice of Info 6) Other:	ormal Patent Application (PTO-152)	
S. Patent and Trademark Office			

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### **DETAILED ACTION**

1. Claims 1-12 are pending in this application.

## Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- 3. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 7, 11 and 12 recite "a critical dimension that is below 100 nm". This claim does not meet the description requirement because the phrase "below" has no lower limit and causes the claim to read outside of the disclosed range. While the claims are supported for some dimensions less than 100 nm, such as 75 nm (p.10 of specification), the claims are not supported for all critical dimensions less than 100 nm. See MPEP 2163.05, III.
- 4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 5. Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the one layer of or deposited on the wafer etched with the second set of conditions in claim 4 is the same layer as the first

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mask etched with the first set of conditions in claim 1, or if it is a different layer underlying the first mask.

#### Allowable Subject Matter

- 6. Claims 1-12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1<sup>st</sup> and 2nd paragraph, set forth in this Office action.
- 7. The following is a statement of reasons for the indication of allowable subject matter: the prior art only teaches resist trimming processes including a tuning parameter to independently control the line width variation tolerance of isolated features relative to nested features, or including the specific oxygen/nitrogen plasma etching conditions as claimed, wherein the target critical dimension is greater than 100 nm.

## Response to Arguments

8. Applicant's arguments filed 7/2/04 regarding the 35 USC 112 rejections have been fully considered but they are not persuasive. The applicant argues that the original specification made no attempt to establish a lower limit to the range and that they do not now, nor did they at the time of filing, know the lower limit of this range. It is therefore unclear as to how the applicant can claim to have possession for this entire range of dimensions, including all dimensions below 100 nm, when they have admitted on the record that they do not know the lower limit. The applicant argues that the present invention has been demonstrated down to 30 nm and 40 nm. However as noted previously the applicant's specification has no disclosure to these limits, which only exemplifies a lower limit of 75 nm. The applicant's claims as currently written seek protection for all critical dimensions less than 100 nm, including dimensions well below

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the "demonstrated" lower limit of 30 nm. It is unclear how the applicant's can claim to have possession of and seek protection for all other dimensions below 100 nm, including dimensions well below 30 nm, when they themselves admit that they have not demonstrated a critical dimension below 30 nm.

9. The applicant argues that the above amendment for claim 4 addresses the 35 USC 112, second paragraph rejection. However claim 4 has not been amended in this or any other response.

#### Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole M Barreca whose telephone number is 571-272-1379. The examiner can normally be reached on Monday-Thursday (9AM-7PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nmb 1/17 8/18/04

> MARK F. HUFF SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 1700